

LAKE TRAVIS NONPOINT SOURCE POLLUTION CONTROL ORDINANCE

Lower Colorado River Authority

(512) 473-3200

**LCRA LAKE TRAVIS
NONPOINT SOURCE POLLUTION CONTROL ORDINANCE**

Section 1. Title and Scope.

This Ordinance shall be known and may be cited as the LCRA Lake Travis Nonpoint Source Pollution Control Ordinance. This Ordinance shall be applied to all land within the Lake Travis watershed within Travis County.

Section 2. Authority.

This Ordinance is promulgated under the authority of the LCRA Act, specifically Section 2(a), (d), (p), (r), and (t).

Section 3. Definitions.

Acre: A unit of area equal to 43,560 square feet.

Affected person: Any person whose legal rights, duties or privileges may be adversely affected by NPS pollution from any proposed development for which a permit is sought.

Agricultural activities: All activities associated with the pasturing of livestock, or use of the land for planting, growing, cultivating, and harvesting crops for human or animal consumption.

Annual pollutant load: The amount of pollution in stormwater runoff that is discharged from a developed site over the course of one year; usually measured in pounds and based on an average year 2077 rainfall.

Applicant: A landowner or land user (or their duly authorized designee) who applies for a permit under this Ordinance.

Background pollutant load: The amount of pollution in stormwater runoff that is discharged from a site before development. The background stormwater pollution concentrations for total suspended solids, total phosphorous, and oil and grease are 48 mg/l, .08 mg/l, and 0.0 mg/l, respectively.

Best Management Practices (BMPs): Those practices, including but not limited to those described in LCRA's Technical Manual, that prevent or control nonpoint source pollution. Innovative BMPs those practices designed by the applicant's engineer to meet or exceed LCRA's performance standards but which are not described in LCRA's Technical Manual.

Board: The Board of Directors of LCRA.

Colorado River Watershed: All land draining into the Colorado River that discharges into the Gulf of Mexico.

Commencement of Development: The commencement of significant physical site preparation, including clearing, grading, or leveling.

Commercial development: All development other than open space or single-family residential development.

Creek: A channel or bed conveying a body of running water in wet weather conditions.

Development: All land modification activity, including the construction of buildings, roads, paved storage areas, and parking lots. "Development" also includes any land disturbing construction activities or human-made change of the land surface, including clearing of vegetative cover, excavating, dredging and filling, grading, contouring; mining and the deposit of refuse, waste, or fill. Care and maintenance of lawns, gardens, and trees, minimal clearing (10 feet wide) for surveying and testing, and agricultural activities are excluded from this definition.

District: LCRA's ten-county statutory district, which includes San Saba, Llano, Burnet, Blanco, Travis, Bastrop, Fayette, Colorado, Wharton, and Matagorda Counties.

Dredge Material: Material to be excavated or removed from below the stated normal conservation pool elevations of the lakes.

Erosion: The detachment and movement of soil, sediment or rock fragments, by wind, water, ice, or gravity.

Existing development: Any completed development, or any development that is not complete, but which has obtained final plat approval from a governmental entity, prior to February 1, 1990.

Fill Material: Any material, structure, wall, rip-rap or revetment placed below the stated normal conversation pool elevations of the lakes.

Impervious Cover: A surface that reduces the amount of penetration of water into the earth (ex. asphalt, building, gravel surface).

Increased Pollutant load: The Annual Pollutant Load minus the Background Pollutant Load.

Jurisdictional Area: This ordinance shall be applied within the portion of the Lake Travis watershed in Travis County.

Lake: The area within the normal conservation pool elevation of Lake Travis (681 foot contour).

Lake Travis watershed: All land draining into Lake Travis. The Lake Travis watershed in Travis County is depicted on Exhibit "A" to this Ordinance, which is incorporated by reference herein.

Landowner: Any person holding title to or having an interest in land.

Land user: Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

Large or significant development: A development that LCRA believes may have a direct water quality impact to an adjacent property owner or to an area.

LCRA: Lower Colorado River Authority.

Master Plan: Document submitted as a portion of the NPS permit application which describes development intended to be conducted in phases. Submittal and approval of a Master Plan shall occur prior to approval of a NPS permit.. Applications submitted for projects that are intended to be developed in phases shall be approved in a two step process. Upon approval of the Master Plan,, the Applicant shall complete the permit application for the first phase and each subsequent phase of the project. A NPS Type I or Type IV permit will be issued for each phase of the development thereafter.

Multi-family development: Any building that contains three (3) or more attached units designed for residential use (e.g. apartments, townhomes, etc.).

Nonpoint source (NPS) pollution: Pollution that is caused by or attributable to diffuse sources. Typically, NPS pollution results from land runoff, precipitation, atmospheric deposition, or percolation.

NPS pollution controls: Those BMPs, including but not limited to those described in LCRA's Technical Manual, that prevent or control nonpoint source pollution.

NPS Pollution Control Permit: A permit issued by LCRA upon an approval of an applicant's permit application. The permit includes the approved NPS pollution controls (BMPs) and/or approved shoreline stabilization measures. NPS Pollution Control Permits are classified by permit types.

Type I – NPS Development Permit – A permit for development of land within the jurisdictional area specifically identifying best management practices for control of nonpoint source pollution resulting from development. Private land owners/land users that install utility infrastructures are also required to obtain a Type I NPS Development Permit.

Type II – Utility Permit – A permit designed for utility construction in a public right-of-way by a public utility whereby the public utility and the LCRA agree on measures to comply with the Ordinance and whereby no separate permits are required for each individual project. The Type II Permit covers all routine, construction, maintenance and repair work anywhere within the jurisdictional area without having to obtain a permit for each individual project.

Type III – Standard Dredge and Fill Permit – A Standard Dredge and Fill Permit is required for projects with activities falling under the general permitting guidelines listed in Section 4(b).

Type IV – Shoreline Development Permit – A Shoreline Development Permit is required for projects with activities exceeding any of the general permitting guidelines listed in Section 4(b).

NPS Best Management Practice (BMP) Maintenance Permit – A permit for the maintenance of Best Management Practices (BMPS) or other NPS pollution control measures. This permit may be issued upon satisfactory completion of development and after issuance of a Type I, or Type IV Permit. The NPS Best Management Practice (BMP) Maintenance Permit may be issued to a person other than the original permit applicant if the person is the landowner or Property Owner's Association, as applicable.

Permit Amendment: A revision to an NPS Pollution Control permit issued by the LCRA after an application for such amendment has been received and reviewed, and the expansion, redevelopment, or modification plans have been found to be in compliance with this Ordinance and the technical manual. Permit amendment procedures are described in the technical manual.

Permittee: A landowner or land user who is undertaking land development activities pursuant to a permit granted according to the provisions of this Ordinance.

Person: Any individual, organization, trust, partnership, firm, association, public or private corporation, political subdivision, or any other legal entity.

Phased development: Development of land in excess of 250 acres according to a Master Plan which occurs in stages and over an extended period of time.

Pollution: Alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Public Utility: A person, or entity that owns or operates for compensation facilities or equipment for producing, generating, transmitting, selling or furnishing electricity, water, sewer service, cable or telephone services.

Redevelopment: Any rebuilding, renovation, revision, remodel, reconstruction or redesign of an existing development occurring after February 1, 1990 and which does not cumulatively increase impervious cover by 5000 square feet, or more.

River: A large natural stream of water.

Sedimentation: Pollution resulting from the deposit of detached soil particles.

Shoreline Stabilization structure: Those structures such as revetment, rip-rap, retaining walls, and bulkheads, as defined in the Technical Manual and any approved innovative practices constructed to stabilize the shoreline of a body of water.

Single-family residences: One- and two-family detached dwelling units designed for occupancy by one or two families as a residence.

Site: The entire area effected by development or area described within a permit application.

Storm Sewer System: Conveyance of stormwater through a man-made structure such as a pipe, culvert, etc.

Technical Manual: The manual developed by LCRA that explains various BMPs that, when

implemented, should achieve the performance standards and other requirements set forth in Section 5 of this Ordinance.

Section 4. Scope and Application.

A. Authorized Activities – No permit required

Landowners or land users who conduct development within the area subject to the jurisdiction of this Ordinance shall be allowed to conduct such activities without obtaining a permit if the development falls within any one of the following subsections and the associated conditions are met. Note: The purpose of this section is to authorize development to occur with little, if any, delay or paperwork. Failure to comply with a condition does not necessarily mean the activity cannot be authorized, but rather that the activity may need an individual permit to be authorized.

1. Construction of a single-family residence or associated structure provided:
 - i) the LCRA is notified of the intended development at least 48 hours prior to commencement of construction, and
 - ii) temporary erosion controls are properly installed and maintained throughout the construction process.
2. Any existing development or redevelopment provided that:
 - i) the LCRA is notified of the intended development or redevelopment at least 48 hours prior to commencement of construction, and
 - ii) temporary erosion controls are properly installed and maintained throughout the construction process
3. Any development project of a County or other Political Subdivision provided:

The County or Political Subdivision has entered into a Memoranda of Understanding or an Interlocal Agreement with the LCRA, which agreement provides for NPS pollution abatement controls for such projects sufficient to provide compliance with the performance standards of this ordinance.

4. Any other development, existing development, or redevelopment not otherwise required to obtain a Permit pursuant to Section 4(b) provided that:

- i) the LCRA is notified of the intended development or redevelopment at least 48 hours prior to commencement of construction, and
- ii) temporary erosion controls are properly installed and maintained throughout the construction process.

B. Authorized Activities – Permit required

Type I, II, III, or IV Permits are required as follows for development or dredge and fill activities unless such development activities are otherwise excluded from the permit requirements by Section 4(a) or exempt pursuant to Section 4(c):

1. Any development activity not otherwise required to obtain a Type II, III, or IV permit shall obtain a Type I permit:
2. Any construction of a public utility shall require the issuance of a Type II permit prior to commencement of construction. LCRA will work with the utility to establish conditions for the permit on a case-by-case basis. Obtaining a Type II permit will eliminate the need for a public utility to obtain a permit for each and every project:
3. Any subdivision of land, which creates access by new roadways shall be required to obtain a Type I Permit prior to the commencement of construction:
4. Dredge and fill activities shall require issuance of a Type III, Standard Dredge and Fill Permit, or a Type IV, Shoreline Development Permit, based upon the characteristics and amount of

Dredge and fill activities. Dredge and Fill activities do not qualify for any of the exemptions described in Section 4(a) or 4(c):

- i) *Standard Dredge and Fill Permit* - A Standard Dredge and Fill Permit is required for any activity that is covered by the Corps of Engineers' Nationwide permit, as amended from time to time, for dredge and fill activities under the Federal Clean Water Act 404 Program (33 CFR 330.5), provided the activity is executed in compliance with Section 5(c) and the technical Manual which provisions are incorporated herein by reference.

- ii) *Shoreline Development Permit* - For any other dredge or fill activity not otherwise covered by Section 4(B)(4)(i), a Type IV Shoreline Development Permit is required and must be executed in compliance with Section 5(c) and the Technical Manual which provisions are incorporated herein by reference.

C. Exemptions

Notwithstanding the requirements of Section 4(B) and 4 (b)(1) through (3) above, this Ordinance shall not apply to the following:

1. A municipality that has adopted and maintains in effect LCRA's Lake Travis NPS Pollution Control Ordinance; or
2. A Municipality that has adopted an ordinance that LCRA determines provides for water quality protection that is equal to or better than that provided by LCRA's ordinance and the Municipality enters into an interlocal agreement agreeing that LCRA's Lake Travis NPS ordinance shall apply to any development that receives an exemption, waiver or variance from the Municipal Ordinance if such exemption, waiver or variance will cause. significant NPS pollution; or
3. Agricultural activities as defined in this Ordinance:

Section 5. Performance Standards.

All development required to obtain a Type I or Type II permit shall achieve the following performance standards:

B. Total Suspended Solids, Total Phosphorous, Oil and Grease.

1. *Total Suspended Solids.* For development on slopes between zero percent (0%) and ten percent (10%), seventy percent (70%) of the annual pollutant load in the stormwater runoff for total suspended solids shall be removed. For development on slopes greater than ten percent (10%) but less than twenty percent (20%), eighty percent (80%) of the, annual pollutant load in the stormwater runoff of total suspended solids shall be removed. For development on slopes greater than twenty percent (20%), ninety percent (90%) of the annual pollutant load in the stormwater runoff of total suspended solids shall be removed. All development located within 500 feet of the 691 msl contour line (measured perpendicular to the contour line toward the shore) and an slopes between zero percent (0%) and ten percent (10%), must have seventy-five percent (75%) of total suspended solids removed after development is complete. All

development located within 500 feet of the 691 msl contour line (measured perpendicular to the contour line toward the shore) and on slopes over ten percent (10%), must have ninety percent (90%) of the total suspended solids removed after development is complete;

2. *Total Phosphorous.* For development on slopes between zero percent (0%) and ten percent (10%), seventy percent (70%) of the annual pollutant load in the stormwater runoff for total phosphorous shall be removed. For development on slopes greater than ten percent (10%) but less than twenty percent (20%), seventy-five percent (75%) of the annual pollutant load in the stormwater runoff for total phosphorous shall be removed. For development on slopes greater than twenty percent (20%), eighty-five percent (85%) of the annual pollutant load in the stormwater runoff of total phosphorous shall be removed. All development located within 500 feet of the 691 msl contour line (measured perpendicular to the contour line toward the shore) and on slopes between zero percent (0%) and ten percent (10%), must have seventy-five percent (75%) of total phosphorous removed after development is complete. All development located within 500 feet of the 691 msl contour line (measured perpendicular to the contour line toward the shore) and on slopes over ten percent (10%), must have eighty-five percent (85%) of total phosphorous removed after development is complete;

3. *Oil and Grease.* For development, other than single-family residences, on slopes between zero percent (0%) and ten percent (10%), seventy percent (70%) of the annual pollutant load for oil and grease shall be removed. For development, other than single-family residences, on slopes greater than ten percent (10%) but less than twenty percent (20%), seventy-five percent (75%) of the annual pollutant load for oil and grease shall be removed. For development, other than single-family residences, on slopes over twenty percent (20%), eighty-five percent (85%) of the annual pollutant load in the stormwater runoff of oil and grease shall be removed. All development, other than single-family residences, located within 500 feet of the 691 msl contour line (measured perpendicular to the contour line toward the shore) and on slopes between zero percent (0%) and ten percent (10%), must have seventy-five percent (75%) of oil and grease removed after development is complete. All development, other than single-family residences, located within 500 feet of the 691 msl contour line (measured perpendicular to the contour line toward the shore) and on slopes over ten percent (10%), must have eighty-five percent (85%) of oil and grease removed after development is complete.

TABLE 1

SUMMARY OF LCRA PERFORMANCE STANDARDS FOR POLLUTANT REMOVAL LEVELS
INCREMENTAL POLLUTANT REMOVAL REQUIREMENTS

<u>FLATTER PROPERTY (0 - 10% SLOPE)</u>			
	TOTAL SUSPENDED SOLIDS	TOTAL PHOSPHORUS	OIL & GREASE
GENERAL	70%	70%	70%

SHORELINE (within 500'
of 691 MSL

75%

75%

75%

MODERATELY SLOPED PROPERTY (10 - 20% SLOPE)

	TOTAL SUSPENDED SOLIDS	TOTAL PHOSPHORUS	OIL & GREASE
GENERAL	80%	75%	75%
SHORELINE (within 500' of 691 MSL	90%	85%	85%

FLATTER PROPERTY (0 - 10% SLOPE)

	TOTAL SUSPENDED SOLIDS	TOTAL PHOSPHORUS	OIL & GREASE
GENERAL	90%	85%	85%
SHORELINE (within 500' of 691 MSL	90%	85%	85%

B. Streambank Erosion. Streambank erosion shall be controlled by designing the drainage system so that the amount of erosion and siltation occurring in the receiving streams is not increased. Specifically, the magnitude and frequency of the pre-development one year design storm shall remain the same. The one year design storm shall be that storm as defined in the Technical Manual.

C. Erosion and Sedimentation Control. Erosion and sedimentation shall be controlled throughout the development process in accordance with the Technical Manual.

D. Alternative Performance Standards for Single-Family Subdivisions. Development of single-family subdivisions that meets all of the following criteria need not comply with subsections (a) and (b) of this Section:

1. Minimum lot size of one acre; and
2. Street and drainage network is designed without curbs or gutters, or some other suitable design, so that runoff is treated using over-land flow methods to a vegetated buffer. The vegetated buffer must meet the slope and vegetative area cover criteria described in the Technical Manual.

E. Sub-basin Averaging. It is the intent of the Ordinance to have a project, as a whole, meet the performance standards of the Ordinance. Each phase of a project shall also meet the performance standard when such performance standard is averaged with phases previously built or under construction. As such, averaging of performance standards between sub-basins is allowed under the following conditions:

1. Performance standards shall be met or exceeded where drainage impacts an adjacent land owner or environmentally sensitive area.
2. No off-site sub-basin discharge shall fall below the performance standard by more than 10 percent.

F. Monitoring and Reporting. If a project proposes innovative BMPs, LCRA may require as a condition of issuing a permit, water quality performance monitoring of certain BMPs. . Water quality monitoring shall last a period of at least 3 years. The cost of monitoring, borne by the applicant, shall not exceed 10% of the construction cost of all BMPs serving a project. During the monitoring period, the applicant shall submit annual reports showing the results of the monitoring efforts. The pollutant parameters to be monitored shall be determined at the time of permit issuance. The monitoring and reporting must be satisfactory prior to issuance of the BMP Maintenance permit.

G. Dredge & Fill Performance Standards-Type III & Type IV Permits

1. Dredge and fill activities will be considered for approval only when such activity is necessary to:
 - i) protect property from erosion or maintain bank or shore stabilization;

- ii) facilitate access to, use of, or maintain navigability of waters; or
- iii) facilitate construction of a project beneficial to the public; and

2. Dredge and Fill Activities:

- i) must be performed so as to prevent run-off of fill material, dredged material, and pollutants into the waters of the lake;
- ii) must not interfere with reasonable access or use of navigable waterways;
- iii) must not significantly, alter wind or water currents or decrease water capacity of the lake;
- iv) must be of a benefit that outweighs any detriment associated with the activity;
- v) must be performed in accordance with the established guidelines within the Technical Manual. Any deviation from these guidelines will require submittal of material supporting the proposed methodology to the satisfaction of LCRA staff;
- vi) must be designed and constructed in the most environmentally sensitive manner feasible;
- vii) must be performed only on land owned or controlled by the Permittee; and
- viii) must be commenced only after approval from all permitting agencies having jurisdiction;

Approval of a proposed dredge and fill activity by another agency does not obligate the LCRA to issue a LCRA Type III or Type IV permit. Similarly, issuance by LCRA of a Type III or Type IV permit does not remove the Permittee's obligation to secure Federal, State or other local government authority when such additional authority is required by law.

